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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Michael (Mac) Collins
House of Representatives
1118 Longworth House Office Building
Washington, D.C. 20515

93-253

Dear Congressman Collins:

This in reply to your letter of November 11, 1993, concerning the impact of the Omnibus Budget Reconciliation Act of 1993 (Budget Act) on the cellular radio service unserved areas. Your letter was referred to me because the Office of Plans and Policy is responsible for implementing the competitive bidding provisions of the Budget Act.

President Clinton signed the Budget Act on August 10, 1993. The Budget Act affected the Commission by, among other things, limiting the Commission's lottery authority and granting the Commission authority to conduct auctions of the spectrum (competitive bidding). Further, the Budget Act permits the Commission to conduct lotteries for radio service applications that were accepted for filing prior to July 26, 1993. For example, because the Commission accepted IVDS applications for nine service areas prior to July 26, 1993, the Commission conducted a lottery for such service areas on September 15, 1993, as the Commission previously announced in a Public Notice, DA 93-935 (July 23, 1993).

In addition, the Budget Act, signed August 10, 1993, provided the Commission with 210 days from its date of enactment, or March 8, 1994, to issue final rules concerning competitive bidding. Accordingly, on September 23, 1993, the Commission initiated a rule making proceeding to implement the competitive bidding provisions of the Budget Act. Notice of Proposed Rule Making (Notice), PP Docket 93-253 (released October 12, 1993). The NPRM proposed, among other things, to subject future cellular radio applications to competitive bidding. The Notice also requested comment on whether to lottery or auction cellular radio unserved area applications received prior to July 26, 1993. In addition, the Commission proposed certain investment incentives, such as installment payment plans with interest, for small businesses and other entities designated by the Budget Act in order to ensure their economic opportunity under a system of competitive bidding. The public, including your constituents, had an opportunity to participate in this proceeding during the comment period that closed November 30, 1993. I can assure you that the Commission will give full consideration to all comments filed in the competitive bidding rule making proceeding.

Sincerely,

Robert Pepper

Robert Pepper
Chief
Office of Plans and Policy

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4031

November 11, 1993

James H. Quello, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Chairman Quello:

I would like to take this opportunity to express my concern regarding the FCC's decision to postpone lotteries selecting public cellular telecommunications service for unserved areas. Paragraph #160 of the Notice of Proposed Rule Making regarding the "Implementation of Section 309(j) of the Communications Act Competitive Bidding" (PP Docket No. 93-253) is cause for great concern. If my understanding is correct, the FCC is now considering retroactively altering the bidding process, effecting thousands of applicants who complied with FCC policies every step of the way.

The intent of Title IV of the Omnibus Budget Reconciliation of 1993 regarding the FCC's authority to use competitive bidding is clear. Based on this, I question any decision by the FCC to modify lotteries for which applications were filed before July 26, 1993.

Chairman Quello, many hard working Americans have invested considerable time, effort and financial resources in this endeavor. They proceeded as the FCC directed - at every turn - only to find out that their good faith effort was not matched by our federal government.

I encourage you to review the proceedings of the FCC regarding this matter. I appreciate your willingness to review the comments of concerned citizens and I look forward to hearing from you.

Sincerely,



MAC COLLINS